

20233mmunozpf

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 v.

23 CR 150 (PMH)

5 PLEA

6 ROMAN MUNOZ,

7 Defendant.

8 -----x  
9 United States Courthouse  
10 White Plains, N.Y.  
11 March 22, 2023  
12  
13

14 Before: THE HONORABLE PHILIP M. HALPERN, District Judge  
15  
16

17 APPEARANCES

18 DAMIAN WILLIAMS

United States Attorney for the  
19 Southern District of New York

JARED HOFFMAN

20 BENJAMIN KLEIN

Assistant United States Attorneys  
21

22 FEDERAL DEFENDERS OF NEW YORK, INC.

23 Attorneys for Defendant

24 BENJAMIN GOLD

25 Also Present: PETER ANDERSON, Spanish Interpreter

20233mmunozpf

1 THE DEPUTY CLERK: United States of America against  
2 Roman Munoz.

3 Would the government please note your appearance for  
4 the record.

5 MR. HOFFMAN: Good morning, your Honor. Jared  
6 Hoffman and Benjamin Klein for the United States.

7 THE DEPUTY CLERK: Defense counsel, please note your  
8 appearance.

9 MR. GOLD: Good morning, your Honor. On behalf of  
10 Roman Munoz, Ben Gold from the Federal Defenders.

11 THE COURT: All right. Good morning.

12 THE DEPUTY CLERK: Would the staff interpreter please  
13 state your name.

14 THE INTERPRETER: Yes.

15 Good morning, your Honor. Peter Anderson

16 THE COURT: Good morning, Mr. Anderson.

17 Good morning, Christina.

18 All right, everybody, please be seated.

19 Mr. Hoffman, welcome. I understand you're the new  
20 guy. I'm kind of the new guy, too, so we'll be new guys  
21 together.

22 MR. HOFFMAN: Sounds good.

23 THE COURT: You worked for one of my heros, so I'm  
24 sure you're well prepared.

25 All right. I'm going to enter a written order, 5(f)

20233mmunozpf

1 order. I don't believe one has been entered yet. Correct?

2 MR. HOFFMAN: That's correct, your Honor.

3 THE COURT: I'm going to sign the order now and I'll  
4 give you an oral warning as well.

5 In accordance with Federal Rule of Criminal Procedure  
6 5(f), I direct the prosecution to comply with its obligation  
7 under Brady against Maryland and its progeny to disclose to the  
8 defense all information, whether admissible or not, that is  
9 favorable to the defendant, material either to guilt or to  
10 punishment and known to the prosecution. Possible consequences  
11 for non-compliance may include dismissal of individual charges  
12 or the entire case, exclusion of evidence and professional  
13 discipline or court sanctions on the attorneys responsible.

14 I direct the prosecution to review and comply with  
15 the written orders which more fully describe this obligation  
16 and the possible consequences of failing to meet them.

17 Does the prosecution confirm that it understands its  
18 obligations and will fulfill them?

19 MR. HOFFMAN: Yes, your Honor.

20 THE COURT: All right. Thank you.

21 Mr. Gold, do I understand correctly that once we get  
22 through the waiver of indictment and arraignment, your client  
23 is prepared to enter a guilty plea today to a lesser-included  
24 charge contained in the information?

25 MR. GOLD: Yes, your Honor.

20233mmunozpf

1 THE COURT: All right.

2 Mr. Gold, does your client have a copy of the  
3 information? And how was it provided to him?

4 MR. GOLD: He does have a copy of the information. I  
5 brought it to him at the jail and with me was an interpreter  
6 employed by my office and we reviewed it together. I'm  
7 satisfied that he understands the contents of the allegation,  
8 and we waive a public reading.

9 THE COURT: All right. And you explained in detail  
10 the charge to him when you met with him, correct?

11 MR. GOLD: I did. And we discussed the charges and  
12 what he knew about the charges on multiple occasions.

13 THE COURT: All right.

14 Mr. Munoz, the document that contains the charge to  
15 which you've indicated you wish to plead guilty is called an  
16 information and has been issued by the United States Attorney.  
17 Have you received a copy of the information?

18 THE DEFENDANT: Yes.

19 THE COURT: Have you reviewed it and discussed it  
20 with your attorney, Mr. Gold?

21 THE DEFENDANT: Yes.

22 THE COURT: Because the crime charged in the  
23 information is a felony, you have a constitutional right to  
24 require the government to present evidence to a grand jury to  
25 see whether the grand jury would vote to charge you with that

20233mmunozpf

1 crime. Do you understand that right?

2 THE DEFENDANT: Yes.

3 THE COURT: A grand jury is a group of at least 16,  
4 but not more than 23 citizens. Before you could be indicted,  
5 at least 12 of them would have to agree that there was probable  
6 cause to believe that a crime was committed and that you  
7 committed the crime. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If the grand jury voted to charge you,  
10 the document they would issue would be called an indictment.  
11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you wish to give up your right to have  
14 your case presented to the grand jury?

15 THE DEFENDANT: Yes.

16 THE COURT: Did you discuss that with Mr. Gold before  
17 you decided to give up that right?

18 THE DEFENDANT: Yes.

19 THE COURT: I have before me a document entitled  
20 waiver of indictment. Immediately above the typewritten words  
21 "Roman Munoz, defendant" is a signature. Is that your  
22 signature?

23 THE DEFENDANT: Yes.

24 THE COURT: I notice Mr. Gold also signed on your  
25 behalf. Did you ask Mr. Gold to sign on your behalf as well?

20233mmunozpf

1 THE DEFENDANT: Yes.

2 THE COURT: Before you signed the waiver of  
3 indictment, did you discuss it with your attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you sign it voluntarily?

6 THE DEFENDANT: Yes, that's correct.

7 THE COURT: When you signed this waiver of  
8 indictment, did you understand you were giving up your right to  
9 be indicted by a grand jury?

10 THE DEFENDANT: Yes.

11 THE COURT: Did anyone threaten you or force you to  
12 sign the waiver?

13 THE DEFENDANT: No.

14 THE COURT: We'll mark the waiver as Court Exhibit 1.

15 I find that Mr. Munoz has knowingly and voluntarily  
16 waived his right to be indicted by a grand jury. The  
17 information will be accepted for filing.

18 Now we'll arraign Mr. Munoz on the information.

19 Mr. Munoz, you've already indicated to me that you  
20 received a copy of the information we've been discussing and  
21 read it and reviewed it with your attorney, Mr. Gold; is that  
22 correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you waive a public reading of the  
25 information or do you want me to read it to you?

20233mmunozpf

1 THE DEFENDANT: I don't know what would be best. No.

2 THE COURT: All right.

3 Mr. Munoz, as to the charge in the information, at  
4 this juncture, how do you plead, guilty or not guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: Not yet.

7 MR. GOLD: At this point, your Honor, with your  
8 permission, I would ask to be permitted to enter a not guilty  
9 plea for Mr. Munoz with the understanding that we will be able  
10 to change that plea momentarily.

11 THE COURT: Yes, I'll accept your representation.

12 At this juncture, Mr. Munoz, you're going to plead as  
13 to the information guilty or not guilty.

14 THE DEFENDANT: Guilty.

15 THE COURT: Okay. We'll wait a minute.

16 (Counsel conferred with the defendant)

17 MR. GOLD: Your Honor, if you don't mind, could you  
18 ask him once more.

19 THE COURT: Yes. We'll try one more time.

20 As to the charge in the information, at this  
21 juncture, Mr. Munoz, how do you plead, guilty or not guilty?

22 THE DEFENDANT: Not.

23 THE COURT: Okay. The clerk, then, will enter a not  
24 guilty plea for Mr. Munoz.

25 Now, Mr. Gold, does your client have an application

20233mmunozpf

1 with respect to that tenuous not guilty plea?

2 MR. GOLD: Yes. Thank you, your Honor. At this  
3 moment, Mr. Munoz would request permission to enter a plea of  
4 guilty pursuant to a plea agreement which is dated February  
5 2nd, which I believe your Honor has a copy of.

6 THE COURT: All right.

7 Mr. Munoz, as you've heard, I've been informed that  
8 you wish to plead guilty to Count One of the information. Is  
9 that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: With respect to Count One, I understand  
12 you intend to plead guilty to the lesser-included offense of  
13 conspiracy to distribute and possess with intent to distribute  
14 5 grams and more of methamphetamine, its salts, isomeres and  
15 salts of its isomeres and 40 grams and more of mixtures and  
16 substances containing a detectable amount of fentanyl, in  
17 violation of Title 21, United States Code, Section  
18 841(b) (1) (B).

19 Before I can accept your guilty plea, I'm going to  
20 need to ask you certain questions. It's very important to me  
21 that you answer these questions honestly and completely. I'm  
22 doing this so I can make sure you understand your rights. I  
23 also want to make sure you're pleading guilty voluntarily and  
24 of your own free will and that you're pleading guilty because  
25 in fact you are guilty and not for some other reason and that



20233mmunozpf

1 you fully understand the consequences of your plea.

2 If at any point you don't understand my questions or  
3 you want to speak to your lawyer, Mr. Gold, please speak up,  
4 because it's very important to me that you understand each and  
5 every question before you answer it. Will you do that, please?

6 THE DEFENDANT: Yes.

7 THE COURT: All right.

8 At this time, I'm going to ask Mr. Cangelosi to place  
9 you under oath.

10 (Defendant Roman Munoz sworn)

11 THE COURT: All right. You may be seated.

12 Mr. Munoz, you're now under oath. That means if you  
13 answer any of my questions falsely, you could later be  
14 prosecuted for perjury or making a false statement. Do you  
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: How old are you?

18 THE DEFENDANT: I'm 65.

19 THE COURT: Give me your full name, please.

20 THE DEFENDANT: Roman Munoz.

21 THE COURT: How far did you go in school, Mr. Munoz?

22 THE DEFENDANT: I completed sixth grade at school in  
23 Mexico.

24 THE COURT: Are you currently or have you recently  
25 been under the care of a doctor or psychiatrist for any reason?

20233mmunozpf

1 THE DEFENDANT: Yes. I'm seeing a doctor.

2 THE COURT: What are you seeing a doctor for?

3 THE DEFENDANT: It's because of my arm and the blood  
4 pressure pills that I'm taking that are given to me at the  
5 prison.

6 THE COURT: All right. What happened to your arm?

7 THE DEFENDANT: I had an accident in the bathroom.

8 THE COURT: Did you break your arm?

9 THE DEFENDANT: Yes.

10 THE COURT: All right.

11 Do the blood pressure pills, the medicine you're  
12 taking, interfere in any way with your ability to understand  
13 what is going on here today or your ability to answer my  
14 questions truthfully?

15 THE DEFENDANT: No.

16 THE COURT: Have you ever been treated or  
17 hospitalized for any mental illness or mental-health problems?

18 THE DEFENDANT: No.

19 THE COURT: Have you ever been treated or  
20 hospitalized for any drug or alcohol abuse or addiction?

21 THE DEFENDANT: No.

22 THE COURT: Other than your blood pressure medicine,  
23 have you taken any drugs, medicine or pills in the last 24  
24 hours?

25 THE DEFENDANT: I did so yesterday.

20233mmunozpf

1 THE COURT: What did you take yesterday?

2 THE DEFENDANT: I took a blood pressure pill and one  
3 for potassium.

4 THE COURT: Okay. A potassium pill?

5 THE DEFENDANT: Yes.

6 THE COURT: And the potassium pill doesn't interfere  
7 with your ability to understand what's going on here today or  
8 to answer my questions truthfully, does it?

9 THE DEFENDANT: No.

10 THE COURT: Have you consumed any alcohol in the last  
11 24 hours?

12 THE DEFENDANT: No.

13 THE COURT: Is your mind clear today, Mr. Munoz?

14 THE DEFENDANT: I'm a bit nervous.

15 THE COURT: No, but is your mind clear? Do you  
16 understand what is happening here today?

17 THE DEFENDANT: Yes.

18 THE COURT: I would be nervous, too, if I were you.  
19 Being nervous is okay. But being nervous isn't interfering  
20 with your ability to understand what I'm doing today and your  
21 ability to answer my questions honestly, right?

22 THE DEFENDANT: No.

23 THE COURT: Have you had enough time and opportunity  
24 to discuss your case with Mr. Gold?

25 THE DEFENDANT: Yes.

20233mmunozpf

1 THE COURT: Have you discussed with him the charges  
2 against you, including any possible defenses that you might  
3 have?

4 THE DEFENDANT: Yes.

5 THE COURT: Have you discussed with him the  
6 consequences of entering a plea of guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you satisfied with Mr. Gold's  
9 representation of you?

10 THE DEFENDANT: Yes.

11 THE COURT: Counsel, do either of you have any doubt  
12 as to Mr. Munoz' competence to enter a plea of guilty at this  
13 time?

14 MR. HOFFMAN: No, your Honor.

15 MR. GOLD: And I do not, your Honor.

16 THE COURT: All right. Based on Mr. Munoz' responses  
17 to my questions and my observations of his demeanor, I find  
18 that he's fully competent to enter an informed guilty plea at  
19 this time.

20 Mr. Munoz, I'm now going to explain to you certain  
21 rights that you have under the Constitution and the laws of the  
22 United States. These are the rights you'll be giving up if you  
23 enter a plea of guilty.

24 Again, please tell me if there's anything at all you  
25 don't understand and either I or your attorney, Mr. Gold, will

20233mmunozpf

1 explain the matter more fully.

2 You have the right to plead ^not guilty to the charge  
3 contained in the information or persist in your previously  
4 entered plea of not guilty. Do you understand that right?

5 THE DEFENDANT: Yes.

6 THE COURT: If you plead not guilty, you have the  
7 right to a speedy and public trial by an impartial jury on the  
8 charge contained in the information. Do you understand that  
9 right?

10 THE DEFENDANT: Yes.

11 THE COURT: At that trial, you would be presumed to  
12 be innocent and the government would be required to prove you  
13 guilty by competent evidence beyond a reasonable doubt before  
14 you could be found guilty. That means you would not have to  
15 prove that you were innocent. Do you understand that right?

16 THE DEFENDANT: Yes.

17 THE COURT: If there were a jury trial, you could not  
18 be convicted unless a jury of 12 people unanimously agreed that  
19 you were guilty beyond a reasonable doubt. Do you understand  
20 that right?

21 THE DEFENDANT: Yes.

22 THE COURT: At that trial and at every other stage of  
23 the case, you would have the right to be represented by an  
24 attorney, and if you could not afford an attorney, the Court  
25 would appoint an attorney to represent you. Do you understand

20233mmunozpf

1 that right?

2 THE DEFENDANT: Yes.

3 THE COURT: During a trial, the witnesses for the  
4 government would have to come to court and testify in your  
5 presence and your lawyer could confront and cross-examine those  
6 witnesses and object to evidence offered by the government. Do  
7 you understand all of that?

8 THE DEFENDANT: Yes.

9 THE COURT: At that trial, your lawyer could also  
10 offer evidence on your behalf and you would have the right to  
11 use subpoenae to compel witnesses to testify and to obtain  
12 evidence to be offered in your defense. Do you understand all  
13 of that?

14 THE DEFENDANT: Yes.

15 THE COURT: At that trial, you would have the right  
16 to testify if you chose to do so, but you would also have the  
17 right not to testify. If you chose not to testify, that could  
18 not be used against you in any way. No inference or suggestion  
19 of guilt could be drawn from the fact that you did not testify.  
20 Do you understand all of that?

21 THE DEFENDANT: Yes.

22 THE COURT: If you were convicted at a trial, you  
23 would have the right to appeal that verdict to a higher court.  
24 Do you understand that right?

25 THE DEFENDANT: Yes.

20233mmunozpf

1 THE COURT: And do you also understand that, even  
2 now, you have the right to change your mind, persist in your  
3 not guilty plea and go to trial?

4 THE DEFENDANT: Yes.

5 THE COURT: But if you do plead guilty and if I  
6 accept your plea, you'll be giving up your right to a trial and  
7 all the other rights that go with it that I've just described,  
8 other than your right to an attorney. If you plead guilty,  
9 there will be no trial and I'll enter a judgment and sentence  
10 you on the basis of your guilty plea after considering a  
11 presentence report prepared by the Probation Department and  
12 after considering any submissions I get from you, your attorney  
13 and the government. Do you understand all of that?

14 THE DEFENDANT: Yes.

15 THE COURT: Finally, if you do plead guilty, you will  
16 also be giving up your right not to incriminate yourself and  
17 I'm going to ask you some questions about what you did this  
18 morning in order to satisfy myself that you are in fact guilty  
19 as charged. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Munoz, do you understand that the  
22 government is willing to accept a guilty plea from you to the  
23 lesser-included offense of conspiracy to distribute and  
24 possession with intent to distribute 5 grams and more of  
25 methamphetamine, its salts, isomeres and salts of its isomeres

20233mmunozpf

1 and 40 grams and more of mixtures and substances containing a  
2 detectable amount of fentanyl, in violation of 21, United  
3 States Code, Section 841(b)(1)(B)?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Mr. Hoffman, what are the  
6 essential elements of the lesser-included offense, please,  
7 charged in Count One?

8 MR. HOFFMAN: The elements of the offense are as  
9 follows:

10 First, that two or more persons agreed to violate the  
11 federal drug laws;

12 Second, that the defendant knowingly and voluntarily  
13 entered into the conspiracy; and,

14 Third, that the objective of the conspiracy was to  
15 distribute, one, 5 grams and more of methamphetamine, its  
16 salts, isomeres and salts of its isomeres and, two, 40 grams  
17 and more of mixtures and substances containing a detectable  
18 amount of fentanyl.

19 The defendant in this case was arrested in Orange  
20 County, so venue is proper in this district.

21 THE COURT: Thank you, Mr. Hoffman.

22 Mr. Munoz, do you understand that if you do not plead  
23 guilty to the lesser-included offense in Count One of the  
24 information, that the government would have to prove each and  
25 every element of that charge as described by Assistant United



20233mmunozpf

1 States Attorney Hoffman beyond a reasonable doubt and at a  
2 trial?

3 THE DEFENDANT: Yes.

4 THE COURT: I'm now going to tell you about the  
5 maximum possible penalties for this offense.

6 As to the lesser-included offense in Count One, the  
7 maximum possible penalty is a term of imprisonment of 40 years  
8 followed by a lifetime term of supervised release plus a  
9 maximum fine of the greatest of \$5 million or twice the gross  
10 pecuniary gain derived from the offense or twice the gross  
11 pecuniary loss to persons other than yourself resulting from  
12 the offense plus a mandatory special assessment of \$100. Do  
13 you understand that these are the maximum possible penalties  
14 for this offense?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you further understand that the crime  
17 to which you're pleading guilty not only has a maximum penalty,  
18 but it also carries a mandatory minimum term of imprisonment  
19 and a mandatory minimum term of supervised release?

20 THE DEFENDANT: Yes.

21 THE COURT: Specifically, the lesser-included offense  
22 in Count One carries a mandatory minimum term of five years of  
23 imprisonment and a mandatory minimum term of four years of  
24 supervised release. That means, even if I wanted to, I would  
25 not be allowed to sentence you to less than the mandatory

20233mmunozpf

1 minimum term of imprisonment and supervised release. Do you  
2 understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: In this case, even though there is a  
5 mandatory minimum sentence of five years, you could be  
6 sentenced below the mandatory minimum under the so-called  
7 safety-valve statute if you comply with certain conditions.  
8 You're eligible for that kind of treatment only if certain  
9 facts apply to your case. It's up to me to decide whether they  
10 do apply and I can't make that decision about that until the  
11 time of sentence. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: As part of your sentence, I can also  
14 order you to pay restitution to any person or entity injured as  
15 a direct result of your criminal conduct. Do you understand  
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: Mr. Hoffman, is there a case here for  
19 restitution?

20 MR. HOFFMAN: No, your Honor.

21 THE COURT: All right.

22 Mr. Munoz, I mentioned supervised release a moment  
23 ago. Supervised release means that if I sentence you to prison  
24 to be followed by a term of supervised release, you would be  
25 subject to supervision by the Probation Department after you

20233mmunozpf

1 are released. If you violated any of the conditions of  
2 supervised release, the term of supervised release could be  
3 revoked and you could be returned to prison without a jury  
4 trial to serve additional time even beyond your original  
5 sentence. If that happened, you would not be given credit for  
6 the time served in prison on your original sentence or for any  
7 time spent on supervised release. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: You should also understand that parole  
10 has been abolished in the federal system, so if you are  
11 sentenced to prison, you will not be released early on parole.  
12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Munoz, are you a citizen of the  
15 United States?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you further understand that if I  
18 accept your guilty plea and adjudge you guilty, that  
19 adjudication may deprive you of valuable civil rights, such as  
20 the right to vote, the right to hold public office, the right  
21 to serve on a jury, the right to possess any kind of firearm,  
22 and the right to hold certain professional licenses?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you talked to your attorney,  
25 Mr. Munoz, about how the Federal Sentencing Guidelines apply to

20233mmunozpf

1 your case?

2 THE DEFENDANT: Yes.

3 THE COURT: In determining a sentence, I'm required  
4 to consider the guidelines, which are a set of rules and  
5 regulations for determining an appropriate sentence. I have to  
6 calculate the applicable sentencing guideline range, consider  
7 that range, and determine whether there should be an upward or  
8 downward departure from that range. In addition, I'm required  
9 to consider the Section 3553(a) factors set forth in Title 18  
10 of the United States Code and to impose a sentence I believe  
11 best satisfies the purposes of the criminal law even if that  
12 sentence is higher or lower than what the guidelines recommend.  
13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you also understand that I will not be  
16 able to determine how the guidelines apply to your case until  
17 after a presentence report has been prepared by the Probation  
18 Office and both you and the government have had a chance to  
19 review, comment on and object to anything in that report?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you also understand that if your  
22 attorney or anyone else has attempted to predict what your  
23 sentence will be, that prediction could be wrong?

24 THE DEFENDANT: Yes.

25 THE COURT: I'm telling you this because you need to

20233mmunozpf

1 understand that no one, not your attorney or the government's  
2 attorney, can be sure right now what your sentence will be.  
3 It's my job to decide what your sentence will be and I'm not  
4 going to do that right now. Instead, I'm going to wait until  
5 after the presentence report is completed and I've ruled on any  
6 challenges to the report, calculated the guidelines range,  
7 considered the Section 3553(a) factors and determined whether  
8 there are any grounds to depart from the guidelines range. So,  
9 at this point, no one can predict what your sentence will be in  
10 this case. Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you also understand that even if your  
13 sentence is different from what your attorney or anyone else  
14 told you that it might be or if it's different from what you  
15 expect it to be or from what's contained in your plea  
16 agreement, once you plead guilty, I will not let you withdraw  
17 your guilty plea?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Munoz, has anyone threatened you or  
20 coerced you in any way or tried to force you to plead guilty?

21 THE DEFENDANT: No.

22 THE COURT: Has anyone other than the prosecution  
23 promised you anything or offered you anything in order to get  
24 you to plead guilty?

25 THE DEFENDANT: No.

20233mmunozpf

1 THE COURT: I've been given a letter dated February  
2 2nd, 2023 from the government's attorney to your attorney,  
3 which is the plea agreement between you and the government.

4 Mr. Cangelosi, we'll mark the plea agreement as Court  
5 Exhibit 2.

6 I want to verify the signatures on page 7, Mr. Munoz.  
7 Right above the words, typed words, "Roman Munoz" and below the  
8 typed words "agreed and consented to" is a signature. Is that  
9 your signature?

10 THE DEFENDANT: Yes.

11 THE COURT: I notice Mr. Gold has also signed on your  
12 behalf as well. Did you authorize Mr. Gold to sign this plea  
13 agreement?

14 THE DEFENDANT: Yes.

15 MR. GOLD: Your Honor, if I could. Sorry to  
16 interrupt, but I think it might be helpful for me to let the  
17 Court know that I went to the jail with this agreement and with  
18 a Spanish interpreter from my office, and that interpreter  
19 also, before we went, translated the entire agreement into  
20 Spanish, so Mr. Munoz has seen and read this in Spanish and  
21 we've discussed it. That interpreter is not here today, which  
22 is why, on the line Spanish-language interpreter, no one  
23 signed, but I can tell the Court that an interpreter from my  
24 office both translated the entire letter dated February 2nd,  
25 the entire plea agreement, and that we gave that to Mr. Munoz,

20233mmunozpf

1 and that I went to the jail with that interpreter and discussed  
2 it with Mr. Munoz.

3 THE COURT: Mr. Munoz, did you hear what Mr. Gold  
4 said?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you read and reviewed a translated  
7 copy of the plea agreement, what I've marked as Court Exhibit  
8 2?

9 THE DEFENDANT: Yes, that's correct.

10 THE COURT: And did you read that translated version  
11 before you signed the English version?

12 THE DEFENDANT: Yes.

13 THE COURT: Did you discuss the plea agreement with  
14 your attorney before you signed it?

15 THE DEFENDANT: Yes.

16 THE COURT: Did you discuss every aspect of the plea  
17 agreement with Mr. Gold before you signed it?

18 THE DEFENDANT: Yes.

19 THE COURT: Did you understand the agreement at the  
20 time you signed it?

21 THE DEFENDANT: Yes.

22 THE COURT: Is the plea agreement the entire  
23 agreement between you and the government?

24 THE DEFENDANT: Yes.

25 THE COURT: Is there any other agreement, promise or

20233mmunozpf

1 understanding between you and the government that's been left  
2 out of this agreement?

3 THE DEFENDANT: No.

4 THE COURT: Did anyone threaten or coerce or force  
5 you to enter into the plea agreement?

6 THE DEFENDANT: No.

7 THE COURT: Other than what's contained in the plea  
8 agreement, has anyone promised you anything or offered you any  
9 inducement to plead guilty or enter into this plea agreement?

10 THE DEFENDANT: No.

11 THE COURT: Has anyone made a promise to you as to  
12 what your sentence will be?

13 THE DEFENDANT: No.

14 THE COURT: I think, Mr. Gold, for the sake of  
15 completeness, what I would ask you to do is ask the interpreter  
16 to simply sign a copy of this and forward it to me with his  
17 sworn statement, or her sworn statement, that she, in fact,  
18 translated the entirety of Court Exhibit 2 and presented the  
19 entirety of it to Mr. Munoz as you indicated. All right?

20 MR. GOLD: Yes. I'll try to get that to you tomorrow  
21 if that's okay.

22 THE COURT: No problem.

23 MR. GOLD: Thank you, your Honor.

24 THE COURT: Just for the sake of completeness, I  
25 think that's appropriate because I don't want to have a slip



20233mmunozpf

1 between what's in English and what's in Spanish and that will  
2 eliminate that possibility.

3 MR. GOLD: Understood.

4 THE COURT: All right. Thank you.

5 Mr. Munoz, it appears that you and the government  
6 have stipulated to, meaning agreed to, the appropriate  
7 calculation of your sentencing range under the guidelines. Is  
8 that your understanding?

9 THE DEFENDANT: Yes.

10 THE COURT: According to the stipulation, your  
11 guidelines range is 135 to 168 months of imprisonment.

12 Do you understand that the guidelines stipulation in  
13 the plea agreement is binding on you and it's binding on the  
14 government, but it is not binding on me?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you also understand that, regardless  
17 of what you and the government have agreed to, I'm going to  
18 make my own determination of your guidelines range?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you also understand that, under  
21 certain circumstances, both you and the government have the  
22 right to appeal any sentence that I might impose, subject, of  
23 course, to the terms of the plea agreement?

24 THE DEFENDANT: Yes.

25 THE COURT: There appears to be what the lawyers call

20233mmunozpf

1 an appeal waiver on pages 4 and 5 of the plea agreement.

2 Do you understand that, under the plea agreement,  
3 you're giving up your right to appeal or otherwise challenge  
4 your sentence so long as I sentence you at or below the  
5 stipulated guidelines range of 135 to 168 months of  
6 imprisonment?

7 THE DEFENDANT: Yes.

8 THE COURT: Mr. Hoffman, is there a civil forfeiture  
9 here? I think there is.

10 MR. HOFFMAN: He agrees to the forfeiture  
11 allegations.

12 THE COURT: Right. In an amount yet to be  
13 determined, correct?

14 MR. HOFFMAN: That's correct.

15 THE COURT: And we'll do that well before sentencing,  
16 correct?

17 MR. HOFFMAN: Yes, your Honor.

18 THE COURT: All right. Good. Thank you.

19 Mr. Munoz, did you discuss this forfeiture provision  
20 with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you admit the forfeiture allegations  
23 with respect to Count One of the information and agree to  
24 forfeit to the United States, pursuant to Title 21, United  
25 States Code, Section 853, a sum of money in an amount to be

20233mmunozpf

1 determined, representing proceeds traceable to the commission  
2 of the charge in Count One of the information?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Munoz, do you understand what  
5 forfeiture means?

6 THE DEFENDANT: Yes.

7 THE COURT: Forfeiture means you're giving something  
8 up. Under this section of the plea agreement, you're  
9 consenting to give up a money judgment against you in an amount  
10 to be determined, which represents the amount of proceeds  
11 traceable to this offense. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you also understand that, at an  
14 appropriate time, you'll be signing and agreeing to a money  
15 judgment whereby a judgment will be entered against you in a  
16 sum certain?

17 THE DEFENDANT: Yes.

18 THE COURT: Have you clearly understood, Mr. Munoz,  
19 everything that's happened here so far today?

20 THE DEFENDANT: Yes.

21 THE COURT: Now that you've been advised of the  
22 charge against you, the possible penalties that you face and  
23 the rights you're giving up, is it still your intention to  
24 plead guilty to the lesser-included offense in Count One of  
25 this information?

20233mmunozpf

1 THE DEFENDANT: Yes.

2 THE COURT: With respect to the lesser-included  
3 offense in Count One of the information, how do you plead,  
4 Mr. Munoz, guilty or not guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: Are you in fact guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you pleading guilty voluntarily and  
9 of your own free will?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Hoffman, would you please summarize  
12 what the government would expect to prove if this matter went  
13 to trial.

14 MR. HOFFMAN: Yes, your Honor.

15 If this case were to proceed to trial, the government  
16 would prove beyond a reasonable doubt that the defendant  
17 conspired with others to distribute, one, 5 grams and more of  
18 methamphetamine, its salts, isomeres and salts of its isomeres  
19 and, two, 40 grams and more of mixtures and substances  
20 containing a detectable amount of fentanyl.

21 The government's proof would include, among other  
22 things, testimony from a confidential informant working with  
23 the DEA about arranging to purchase a substantial quantity of  
24 narcotics, including methamphetamine, and meeting the defendant  
25 at a farm in Pine Island to complete the sale; recordings

20233mmunozpf

1 relating to the transaction, including a recording of the CI  
2 meeting with the defendant to purchase narcotics; law  
3 enforcement testimony regarding a search of the truck the  
4 defendant was driving which recovered fake buy money given to  
5 the CI and additional narcotics; physical evidence, including  
6 narcotics the CI purchased from the defendant and recovered  
7 from his truck; lab tests showing that these narcotics were  
8 approximately 13 kilos of methamphetamine and approximately 1  
9 kilo of fentanyl; and the defendant's Mirandized postarrest  
10 statement admitting that he and another individual were being  
11 paid for transporting the narcotics to New York.

12 THE COURT: Thank you for that, Mr. Hoffman.

13 Mr. Munoz, did you hear what Assistant United States  
14 Attorney Hoffman just said?

15 THE DEFENDANT: Yes.

16 THE COURT: Is what he said substantially accurate?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Would you please now tell me  
19 in your own words what you did to make you believe that you are  
20 guilty of this charge.

21 THE DEFENDANT: Okay. The month of April and May of  
22 last year, I was part of transporting drugs to New York. I  
23 knew there were drugs in there because I was being paid for it,  
24 but I did not know what kind of drugs they were. And I'm very  
25 sorry for that now.

20233mmunozpf

1 THE COURT: Is that it? Okay.

2 Let's just try to add a few facts to this.

3 You were driving the truck from where? Pennsylvania  
4 to New York?

5 THE DEFENDANT: No. From Arizona to New York.

6 THE COURT: Arizona. Okay.

7 And it was a Volvo truck as I understand it.

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And it was a long truck, like  
10 50-something feet long, right?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. And was your co-conspirator,  
13 Mr. Fernandez, with you?

14 THE DEFENDANT: Yes.

15 THE COURT: How long did it take you to get from  
16 Arizona to New York?

17 THE DEFENDANT: Two nights and two days.

18 THE COURT: All right. And along the way, you and he  
19 understood that you had drugs in the back of the truck and that  
20 your job was to transport these drugs to New York, right?

21 THE DEFENDANT: That's correct.

22 THE COURT: And when they got to New York, you were  
23 going to sell the drugs to an individual?

24 THE DEFENDANT: We were going to deliver it.

25 THE COURT: You were going to deliver them to a --

20233mmunozpf

1 okay. I get it.

2 Did you know how much drugs were in the truck,  
3 quantity?

4 THE DEFENDANT: No. I did not know how much weight  
5 it was. There were 30 packages, but I didn't know how much  
6 they weighed.

7 THE COURT: And the packages contained  
8 methamphetamine and fentanyl, right?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. And so your job was to  
11 deliver these drugs to a location here in the Southern District  
12 of New York, right?

13 THE DEFENDANT: Correct.

14 THE COURT: All right. And on the day you delivered  
15 the drugs, you delivered the drugs and accepted a backpack  
16 which contained money, or what you thought was money, right?

17 THE DEFENDANT: Yes.

18 THE COURT: And you took the money out of the  
19 backpack and put it in the truck or put the backpack with the  
20 money in the truck?

21 THE DEFENDANT: I put the backpack into the truck.

22 THE COURT: And did you take the \$10,000 that you and  
23 Mr. Fernandez were getting for it out of the backpack?

24 THE DEFENDANT: No.

25 THE COURT: Okay. But the deal was you would get

20233mmunozpf

1 \$10,000, \$5,000 each, for this work?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Gold, we have no venue issue here,  
4 correct?

5 MR. GOLD: We do not.

6 THE COURT: Mr. Munoz, did you know, at the time you  
7 were doing all of this, that it was wrong?

8 THE DEFENDANT: Yes.

9 THE COURT: And against the law?

10 THE DEFENDANT: Yes.

11 THE COURT: Did anyone threaten or coerce or force  
12 you to do any of these things?

13 THE DEFENDANT: No.

14 THE COURT: Are there any additional questions,  
15 counsel, either of you would like me to ask at this time?

16 Mr. Hoffman?

17 MR. HOFFMAN: No, your Honor.

18 THE COURT: Mr. Gold?

19 MR. GOLD: No. Thank you, your Honor.

20 THE COURT: Mr. Hoffman, do you believe there's a  
21 sufficient factual predicate for a guilty plea at this time?

22 MR. HOFFMAN: Yes, your Honor.

23 THE COURT: Mr. Gold, do you agree?

24 MR. GOLD: Yes.

25 THE COURT: Mr. Gold, do you know of any valid



20233mmunozpf

1 defense that would prevail at trial or any reason why your  
2 client should not be permitted to plead guilty at this time?

3 MR. GOLD: I do not.

4 THE COURT: Based, then, on the defendant's responses  
5 to my questions and my observations of his demeanor, I find  
6 that he understands his rights and is waiving them knowingly  
7 and voluntarily with an understanding of the consequences of  
8 his guilty plea, including the potential sentence that may be  
9 imposed. I find further that the guilty plea is voluntary and  
10 did not result from force, threats or promises other than  
11 promises in the plea agreement, that the defendant has admitted  
12 he is guilty as charged of the lesser-included offense in Count  
13 One of the information, and that the plea is supported by an  
14 independent factual basis for each and every element of the  
15 crime charged. Accordingly, I accept the guilty plea and I  
16 adjudge Mr. Munoz guilty on the charge in the lesser-included  
17 offense contained in Count One of the information.

18 I'm going to direct that the Probation Department  
19 conduct a presentence investigation and prepare a presentence  
20 report.

21 Mr. Munoz, you'll be interviewed by a probation  
22 officer as part of this process. Your lawyer, Mr. Gold, will  
23 be with you during that interview. Please make sure that  
24 anything you say to the probation officer is truthful and  
25 accurate. I want you to know that that presentence report is

20233mmunozpf

1 very important to me in deciding what sentence to impose on  
2 you, so it's important that you read the report carefully and  
3 discuss it with Mr. Gold before your sentencing date. If there  
4 are any mistakes in that report, tell Mr. Gold about them so  
5 that he can bring them to my attention before I impose  
6 sentence. Also, both you and Mr. Gold will have the right to  
7 speak on your behalf before I impose sentence.

8 I see we preselected a sentencing date of August 17  
9 at 3 p.m., subject to counsel's availability.

10 MR. HOFFMAN: That works for the government.

11 MR. GOLD: If I could just quickly open up a  
12 calendar. I apologize.

13 THE COURT: Don't apologize. We used to look in our  
14 day-timers. That went faster.

15 MR. GOLD: It's in my phone. That's why.

16 Yes, the 17th works. Thank you.

17 THE COURT: All right.

18 The deadline for any written submissions, Mr. Gold,  
19 is three weeks before.

20 And the government's response is due two weeks  
21 before.

22 Please make sure to address and sequence your  
23 arguments specifically to the 3553 factors and do it  
24 sequentially. If there are any guidelines arguments to be  
25 made, please do them separately and subsequent to your 3553(a)

20233mmunozpf

1 arguments.

2 All right. I understand the defendant is  
3 incarcerated and there's no bail application at this time.

4 Correct?

5 MR. GOLD: That's correct.

6 THE COURT: All right. The defendant, then, is  
7 remanded.

8 Is there anything else I can do for anybody today?

9 Mr. Hoffman?

10 MR. HOFFMAN: No, your Honor.

11 THE COURT: Mr. Gold?

12 MR. GOLD: No. Thank you, your Honor. Good to see  
13 you.

14 THE COURT: All right. Thank you.

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